

1 **ARIZONA STATE BOARD OF PHARMACY**  
2 **1700 W. Washington Street, Room 250**  
3 **Phoenix, Arizona 85007**  
4 **(602) 771-2727**

5 In the Matter of:

6 **STEPHEN L. MARKS,**

7 Applicant for Pharmacist License  
8 in the State of Arizona

**FINDINGS OF FACT, CONCLUSIONS**  
**of LAW and BOARD ORDER**  
**No. 10-0066-PHR**

9  
10 Pursuant to Notice of Hearing Number 10-0066-PHR (Notice) this matter came before  
11 the Arizona State Board of Pharmacy (Board) on July 15, 2010.  
12

13 Zina Berry, president, presided with members James Foy, JoAnne Galindo, Dennis  
14 McAllister, Dan Milovich, Steve Haiber, Kyra Locnikar, Louanne Honeyestewa and Tom Van  
15 Hassel in attendance.  
16

17 The State was represented by the Office of the Attorney General, Elizabeth Campbell,  
18 Assistant Attorney General, Licensing and Enforcement Section. Mary Jo Foster, of the  
19 Solicitor General's Section of the Attorney General's Office was present by telephone  
20 connection and available to provide independent legal advice to the Board. Stephen Marks,  
21 (Respondent) was present and was not represented by an attorney. The Board, after  
22 considering the testimony and evidence presented, hereby issues the following Findings of  
23 Fact, Conclusions of Law, and Order.  
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1 **FINDINGS OF FACT**

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3 1. At its March 17-18, 2010 Board meeting, the Arizona State Board of Pharmacy

4 denied Respondent's application for licensure as a pharmacist in Arizona.

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6 2. In denying Respondent's Application, the Board considered the fact that

7 Respondent's Pennsylvania pharmacist license was disciplined on June 5, 2009.

8

9 3. The Pennsylvania Order was based on findings that Respondent faxed a copy of

10 a prescription for lorazepam, a Class III controlled substance, to one pharmacy and then

11 had the original prescription filled at another pharmacy.

12

13 4. Respondent was convicted of a misdemeanor offense for this conduct.

14

15 5. In addition, the Pennsylvania Order contained a finding that Respondent diverted

16 approximately a dozen lorazepam, a Class III controlled substance, from the pharmacy

17 where he was employed.

18 **CONCLUSIONS of LAW**

19

20 1. The Board has jurisdiction pursuant to A.R.S. § 32-1901, et seq.

21

22 2. The Board denied the application pursuant to A.R.S. §§ 32-1927(S) and 32-

23 1927(A).

24

25 3. The conduct for which Applicant was disciplined in Pennsylvania is grounds for

26 denial of his Arizona application because it constitutes unprofessional conduct under A.R.S.

27 §32-1901.01(B)(16): Committing an offense in another jurisdiction that if committed in this

28 state would be grounds for discipline.

29

1  
2 **ORDER**

3 In view of the above Findings of Fact and Conclusions of Law, the Board issues the  
4 following Order:  
5

6 The application by Stephen L. Marks for an Arizona pharmacist license is denied.

7 **RIGHT TO PETITION FOR REHEARING OR REVIEW**


8 Respondent is hereby notified of the right to petition for a rehearing or review by filing  
9 a petition with the Board's Executive Director within thirty (30) days after service of this  
10 Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for granting  
11 a rehearing. A.C.C. R4-23-128. Service of this order is effective five (5) days after date of  
12 mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five  
13 (35) days after it is mailed to Respondent.  
14  
15

16 Respondent is further notified that the filing of a motion for rehearing is required to  
17 preserve any rights of appeal to the Superior Court.  
18  
19

20 DATED this 19<sup>th</sup> day of July, 2010.  
21

22 **ARIZONA STATE BOARD OF PHARMACY**  
23

24 SEAL  
25

26   
27

28 Hal Wand, R.Ph.  
29 Executive Director

1 **COPIES** mailed this *20* day of July, 2010

2 By Certified Mail Receipt No. 7009 0820 0000 0094 5918 to:

3  
4 Stephen L. Marks  
5 14 Hosfeld Rd.  
6 Carlisle, PA 17015

7 **COPIES** of the foregoing mailed this *20* day of July, 2010, to:

8 Elizabeth Campbell, Assistant Attorney General

9 and

10 Mary Jo Foster, Assistant Attorney General, Solicitors Office

11 Both located at  
12 1275 W. Washington  
13 Phoenix, AZ 85007  
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